IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Civil Revision No. 96 of 2004

1. Dinesh Singh Bora,
   S/o late Shri Jeet Singh Bora,
   R/o Main Bazar Vanvasa,
   Tehsil Purnagiri, Tanakpur,
   District Champawat.
2. Bhagwan Singh Bora,
   S/o late Shri Jeet Singh Bora
3. Mohan Singh Boara
   S/o Shri Jeet Singh Bora
   Both R/o Village Dhunaghat,
   P.O. Dhunaghat,
   Tehsil & Distt. Champawat.

…… Revisionists

Versus

1. Civil Judge (Junior Division)
   Khatima, Distt. Udham Singh Nagar.
2. The National District Co-operative Bank Ltd.
   Head Quarter Haldwani,
   District Nainital through Secretary/
   General Manager, Nainital District
   Co-operative Bank Ltd.

…… Opposite Parties

Mr. S.K. Mandal, learned counsel for the revisionists.
Learned Standing Counsel for the respondent No. 1.

Hon'ble Prafulla C. Pant, J.

By means of this revision, the impugned order dated 29.10.2004 passed by learned Civil Judge (Junior Division) Khatima in civil suit No. 10 of 1998 is challenged, whereby the learned Civil Judge has refused to recall the order by which substitution application is allowed. The revisionists also prayed for recalling of the ex parte order dated

09.07.2004 passed by the respondent No. 1 in the proceedings before Prescribed Authority.

2) Heard learned counsel for the applicant-revisionists.

3) It appears that a rent control case is pending before the learned trial court in which the applicants-revisionists father was the original tenant, who filed his written statement in the case before the prescribed authority. Shri Jeet Singh, the original tenant died on 03.10.2003. The applicant-revisionists are sons of said original tenant. The written statement of Sri Jeet Singh itself shows that he had vacated the shop and it was occupied by one Kailash Nath Agarwal, who is running the shop. The landlord, Nainital District Co-operative Bank Ltd. sought substitution of the present applicant-revisionists as heirs of the original tenant, which was allowed by the learned prescribed authority. It appears that the applicant-revisionists sought recalling of the order passed on application of substitution moved by the landlord, which was rejected by the learned prescribed authority. There appears no illegality nor any wrong exercise of the jurisdiction by the prescribed authority. Therefore, the revision is dismissed summarily.

(Prafulla C. Pant, J.)

Dt. 23.12.2004
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